



ALAMEDA COUNTY
CONGESTION MANAGEMENT AGENCY

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Memorandum

*December 11, 2008
Agenda Item 7.2*

Date: December 3, 2008
To: CMA Board
From: Plans and Programs Committee
Subject: State Transportation Improvement Program (STIP)
Commitments Policy

Action Requested

The ACCMA recently made commitments of future STIP funding to various projects. MTC has also revised Resolution 3434, which addresses the region's Transit Expansion Program and includes funding scenarios for the BART Warm Springs Extension, Dumbarton Rail Corridor and AC Transit BRT projects.

It is recommended that the Board approve Resolution 08-018 outlining a policy for programming future STIP funds. This policy addresses the following projects:

- MTC Revised Resolution 3434
- Previous STIP commitments made by the ACCMA
- Infrastructure Bond Projects

Next Steps

The Board adopted resolution will be transmitted to MTC.

Discussion:

MTC Approval of Revised Resolution 3434

In October the Board provided direction regarding the percentage of new STIP revenue the ACCMA should contribute to the Resolution 3434 projects in a programming cycle, general structure for how to address financing charges, and project readiness criteria. The direction and guidance is included in the attached resolution for consideration by the Board.

The Board provided the following direction at the October meeting in regards to financing issues:

- The underlying responsibility for financing costs, similar to the approach taken by MTC, is the responsibility of the project sponsor.
 - Alternative proposals, on a case by case basis, may be considered at the time of the programming action.
 - All three Resolution 3434 projects should receive an equivalent arrangement (in the event a project is allowed financing costs).

ACCMA staff has met with AC Transit, BART and MTC staff to discuss financing strategies, as well as discussing strategies at the November Committee meetings. The discussion focused on overall strategy and order of preference for how to obtain the funding required for the Resolution 3434 projects.

The order of preference to finance the Resolution 3434 projects includes:

- 1a. Legislation Option - Fund project with an advance STIP funding through a bonding mechanism
- 1b. CTC IOU Option - Fund project with a date certain release of funds commitment
2. Work Around Option - Fund project with a series of local fund exchanges

1a. Legislation Option - Fund project with an advance STIP funding through a bonding mechanism

The project sponsors expressed a preference for the advance of the total amount of required funds. Bonding against the funds in the STIP, to advance the total amount of funds required for a project, will require legislation (to bond against state revenues for transit projects). The ability to bond against the STIP does not address the issue of additional costs associated with financing.

1b. CTC IOU Option - Fund project with a date certain release of funds commitment

An alternative to bonding is to secure a commitment to reimburse the project sponsor at a later date for costs incurred to deliver the project. This has been referred to by such terms as advanced construction authority, letter of no prejudice, or pre-award authority. This alternative may require a revision to the current STIP guidelines and/or legislation. In the past, the CTC has been reluctant to commit to payments on a specific timetable. This would allow the project sponsors to advance a project with financing that may occur locally. The ability to finance with local funds may still include additional costs associated with financing.

2. Work Around Option - Fund project with a series of local fund exchanges

The above scenarios accommodate securing a commitment through the STIP at the initiation of the project. The local fund exchange scenario involves programming STIP funds to an alternative project that can accept portions of the total funding required that are within the amounts available in a STIP cycle.

For example, this could allow two smaller alternative STIP projects of \$20 M over two STIP cycles to make up a total \$40 M commitment. The project sponsor would have to complete an exchange within their agency to use an alternate fund source for the Resolution 3434 project that is made available due to the alternative projects funded by the STIP.

This alternative allows a sponsoring agency to access STIP funds within existing guidelines of the STIP. A sponsoring agency may incur additional costs associated with financing. CMA staff understands that the current composition of the STIP is not constrained by Article 19 of the California Constitution, which limits the use of funds on certain transit projects. MTC Resolution 3434 specifies that AC Transit may need to develop a phasing plan to deliver the full project if the entire project is not deliverable which may be accommodated within this alternative.

In our meeting with the project sponsors, both BART and AC Transit indicated they anticipate requesting funds in the 2010 STIP.

Other Issues

AC Transit has indicated that they have refined the cost estimate for the BRT project since the original project information was provided to MTC for the Revised Resolution 3434. The CWTP has identified \$85 M for the BRT project. Revised Resolution 3434 commits \$35 M in CMAQ funds to the project. MTC Revised Resolution 3434 specifies that the AC Transit BRT Project requires a \$40 M STIP funding commitment from the ACCMA to match the CMAQ funds. AC Transit has requested the ACCMA to increase to \$50 M the amount of funds specified for the BRT Project in the ACCMA proposal to provide a priority for the Resolution 3434 projects in STIP programming.

Staff will work with AC Transit and MTC to clarify the project funding plan. Upon confirming the funding plan and amendment(s) of the MTC Revised Resolution 3434, the ACCMA STIP programming policy can be reconsidered.

Previous STIP commitments made by the ACCMA

The Board provided direction regarding the programming priority and the programming requirements. The direction and guidance is included in the attached resolution for consideration by the Board.

Infrastructure Bond Projects

The Board provided direction regarding the programming priority and the programming requirements. The direction and guidance is included in the attached resolution for consideration by the Board.

Attachment 1 - Information previously discussed at the October Committees and Board Meeting

Attachment 2 - Summary of ACCMA Programming Commitments

Attachment 3 - Draft ACCMA Resolution 08-018

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Attachment 1 Information previously discussed at the October Committees and Board Meetings

MTC Approval of Revised Resolution 3434

MTC approved a revised version of Resolution 3434 on September 24th, which addresses the region's Transit Expansion Program and includes funding scenarios for the BART Warm Springs Extension (WSX), Dumbarton Rail Corridor, AC Transit BRT projects, and the corresponding STIP/RM2 fund exchange between the WSX and Dumbarton Rail Corridor projects. The STIP funding detailed in the MTC resolution includes:

\$ 40M	AC Transit Bus Rapid Transit (BRT) project
\$ 69M	BART WSX project
<u>\$ 91M</u>	Dumbarton Rail project
\$200M	TOTAL

ISSUES FOR DISCUSSION

1. What is the maximum percentage of new STIP revenue the CMA should contribute to the Resolution 3434 projects in any programming cycle?

The Board approved the 2008 STIP in December, 2007 that included a commitment to program twenty-five to thirty-three percent (25% to 33%) of the Alameda County shares in the next several STIP cycles to the BART Warm Springs Extension project not to exceed \$69 M. MTC Resolution 3434 adds the Dumbarton Rail and BRT projects bringing the total funding request from the STIP to \$200M.

Assuming that Alameda County will receive about \$40M in new programming capacity in 2010 STIP (representing two years of new revenue), the following table summarizes the impact of funding the \$200M of projects:

<u>% of STIP</u>	<u>STIP Cycle</u>	<u>Number</u>	<u>2010</u>
<u>Devoted to</u>	<u>the \$200M</u>	<u>of STIP</u>	<u>STIP</u>
<u>Reso 3434</u>	<u>Is Met</u>	<u>Cycles *</u>	<u>Funds</u>
<u>Projects</u>			<u>Remaining</u>
100 %	2018	5	\$ 0 M
50 %	2024	8	\$ 20 M
30 %	2032	12	\$ 28 M
25 %	2036	14	\$ 30 M

*Assumes an escalation rate of about 3% per year in STIP Revenue; a STIP cycle encompasses 2 years of programming capacity

Issues to Consider

- A large percentage devoted to the Resolution 3434 projects could hinder funding for other projects and a small percentage would draw out the time to fund the projects.
- ACCMA has an existing commitment to fund the WSX up to 33% (Resolution 07-35).
- The WSX project is guaranteed a minimum of 25% of the new STIP revenue in a given cycle. (Resolution 07-35)

- Two of the three Resolution 3434 projects may be seeking funding concurrently.
- The funds included in the Countywide Transportation Plan (CWTP) are assumed to be for the construction phase.
- Overall, 56% of the revenues in the CWTP are for transit. Of these funds, \$233 M is identified for Transit Capital Replacement projects. This suggests that there may be a trade off between Transit Capital Replacement and transit expansion projects in future funding cycles. (see Attachment 2)
- The WSX and BRT projects are identified as high priority projects in the CWTP.

Board Direction

- The Board agreed that the 50% maximum is appropriate.
- The Board agreed that a minimum 25% programming level for the WSX project (if it is ready) is appropriate.

2. How should financing charges be addressed?

There are several issues with using STIP funds to finance construction of the three Resolution 3434 transit projects.

- In the past, federal bonding authority (GARVEE Bonds) was used for STIP revenues. However, transit projects are not eligible to be advanced through federal GARVEE Bonds. Furthermore, the STIP includes only state funds now, eliminating the GARVEE option.
- The proposed legislation (AB3021 Nava) that would have allowed bonding against the STIP, which only includes state funds now, was vetoed by the Governor.
- MTC Resolution 3434 assumes that project sponsors are responsible for funding any cost increases, which include financing costs.
- Financing costs will lengthen the time frame of the funding commitments, potentially compromising the projects with later scheduled delivery.
- The projects may have multiple fund sources and it may be desired to share financing costs among all funding partners

Board Direction

- The Board expressed that the underlying responsibility for financing costs, similar to the approach taken by MTC, is the responsibility of the project sponsor.
- The Board was open to considering alternative proposals, on a case by case basis, at the time of the programming action.
 - The Board was supportive of the concept that all three Resolution 3434 projects should receive an equivalent deal (in the event a project is allowed financing costs).

3. Project Readiness

The ACCMA should probably not commit to a year of programming for any of the three Resolution 3434 projects pending receipt of detailed project information at the time of programming.

- A STIP application will be needed, including projects with pre-programming commitments.

- The review of the project scope, cost, full funding plan and schedule at the time of a call for projects will determine if programming is appropriate and that all requirements of the fund source can be satisfied (e.g. associated timely use of funds requirements).
- Certain milestones should be met prior to a programming action for any of the three Resolution 3434 projects.
 - Certified Environmental Document (CEQA/NEPA)
 - Clearly defined locally preferred alternative
 - Accurate project schedule
 - Accurate cost estimate (including supporting assumptions)
 - Full funding plan to complete the project
- All projects receiving STIP funds will still be required to meet all the timely use of funds (TUF) provisions of the STIP.

Board Direction

- The Board agreed that the project readiness criteria are appropriate

Previous STIP commitments made by the ACCMA

During the 2008 STIP programming process, the CTC removed four projects requesting \$10.5 M from the CMA's adopted program prior to the CTC approval of the final STIP. The ACCMA made a commitment to fund the four projects in future STIP cycles (Previous Commitment Projects).

During the 2008 STIP process, the ACCMA has also committed to funding for the Caldecott Tunnel project which is addressed by ACCMA resolution 08-006 Revised.

It is not proposed that the ACCMA commit to a year of programming for any of the Previous Commitment projects pending receipt of detailed project information at the time of programming.

- A STIP application will be needed, including projects with pre-programming commitments.
 - The review of the project scope, cost, full funding plan and schedule at the time of a call for projects will determine if programming is appropriate and that all requirements of the fund source can be satisfied (e.g. associated timely use of funds requirements).
- Anticipate these requests to be in the 2010 or 2012 STIP
 - Each of these project requests should be able to be accommodated within one STIP cycle with no financing or alternative funding procedures required.
- All projects receiving STIP funds will still be required to meet all the timely use of funds (TUF) provisions of the STIP.

Board Direction

- The Board agreed that STIP programming priority equal to the Resolution 3434 be provided for Previous Commitment Projects.
- The Board agreed that the programming requirements criteria are appropriate

Infrastructure Bond Projects

The ACCMA has received about \$500 M in funding from the State Infrastructure Bond Program, including \$391 M of Corridor Mobility Improvement Account, \$73 M of Trade Corridor Improvement Fund and \$21 M of Traffic Light Synchronization Program. The Bond Program is funding projects on I-580 in the Tri-Valley, I-880 in Oakland and San Leandro, and the I-80 corridor (joint project with Contra Costa County).

The California Transportation Commission has indicated that project sponsors are responsible to fund any cost increases on the Infrastructure Bond Program projects. The bidding climate for construction contracts is favorable at this time, but it is not known how long this will continue. In the event of cost overruns, the CTC requires that the sponsor fund the shortfall. STIP funds may be the only source available to fund a project shortfall. It is anticipated that funds may need to be advanced from the 2012 STIP, if funds are required, based on the infrastructure bond project schedules.

Board Direction

- The Board agreed that STIP programming priority equal to the Resolution 3434 and Previous Commitment Projects be provided for CMA sponsored Infrastructure Bond projects with a funding shortfall.
- The Board agreed that requests for additional funding for Infrastructure Bond projects include documentation on the project funding and reason for a cost increase for review and discussion prior to consideration.
- The Board agreed that Infrastructure Bond projects are proposed to be eligible for funding from the non-Resolution 3434 committed funds.

Project	Type of Commitment	Amount Committed	Comments	Current Board Policy
MTC RESOLUTION 3434 PROJECTS				
BART to Warm Springs Extension	Future Programming	25 to 33% of next several STIP cycles (up to \$69M)	Staff expects BART will request funds in 2010 STIP. CMA will work with partners to advance the funding. \$91M of \$160M of funds previously committed to BART WSX proposed to be committed to Dumbarton Rail project.	Resolution 07 -35, (12/06/07)
Dumbarton Rail Project	Future Programming	TBD (up to \$91M)	\$91M of future RTIP funds (previously committed to BART WSX)	NA
AC Transit BRT	Future Programming	TBD (up to \$40M)		NA

Project	Type of Commitment	Amount committed	Comments	Current Board Policy
PREVIOUS STIP COMMITMENTS				
Backfill of Lifeline Program Funds	Exchange	\$2M	In order to maintain the schedule for the BART elevator project at Ashby BART station, the \$2 M STIP funding reprogrammed from the BART elevator at the Ed Roberts Campus was proposed to be replaced with Lifeline funding. Lifeline funding will be made whole with \$2 M from the Alameda County share of the 2010 STIP.	Resolution 07 -35 (12/06/07)
Mission/880 (Landscaping component)	Reprogram	\$3.5M	Was deleted from 2008 STIP to create capacity for the Route 84 project (in Union City); Staff expects Caltrans will request funds in 2010 STIP	CMA Board Action 06/26/08
Broadway/Jackson Interchange	Reprogram	\$3M	Was deleted from 2008 STIP to create capacity for the Route 84 project (in Union City); Staff expects City of Alameda will request design funds in 2010 STIP	CMA Board Action 06/26/08
880 Corridor Project	Future Programming	\$1.9M	The original 2008 STIP proposal included these funds. CMA Board authorized deferring funding request until 2010 STIP. Deletion created capacity for the Route 84 Project (in Union City); 2010 STIP eligible project will need to be proposed.	CMA Board Action 06/26/08

Project	Type of Commitment	Amount Committed	Comments	Current Board Policy
OTHER COMMITMENTS				
Caldecott Tunnel Exchange Project	Pre-programming	\$2M	2010 STIP eligible project will need to be proposed by the CCTA, in exchange for CCTA advancing funds to Oakland.	Resolution 08 -006 Revised (07/31/08)
Transportation Enhancements Along the vicinity of Route 24	Future Programming	\$4M	Program up to \$4 Million in the 2010 and/or 2012 STIPs for transportation enhancements along the vicinity of Route 24 to effectuate certain provisions of the settlement agreement of the environmental document prepared by Caltrans and the City of Oakland	Resolution 08 -006 Revised (07/31/08)
Project Totals				
BART WSX		\$69.0M		
Dumbarton Rail		\$91.0M		
AC Transit BRT		\$40.0M		
Subtotal Resolution 3434 Projects		\$200.0M		
Subtotal Previous STIP Commitments		\$10.5M		
Subtotal Other Commitments		\$6.0M		
Total all projects		\$216.5M		

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**ALAMEDA COUNTY CONGESTION MANAGEMENT AGENCY
RESOLUTION 08-018**

State Transportation Improvement Program (STIP) Commitments

WHEREAS, SB 45 (Chapter 622, Statutes 1997) substantially revised the process for estimating the amount of state and federal funds available for transportation projects in the state and for appropriating and allocating the available funds to these projects; and

WHEREAS, as part of this process, the Alameda County Congestion Management Agency (ACCMA) is responsible for programming projects eligible for Regional Improvement Program funds, pursuant to Government Code Section 14527 (a), for inclusion in the Regional Transportation Improvement Program (RTIP), and submission to the Metropolitan Transportation Commission (MTC) and then to the California Transportation Commission (CTC), for inclusion in the State Transportation Improvement Program (STIP); and

WHEREAS, the MTC adopted Revised Resolution 3434 on September 23, 2008, that requests that the ACCMA commit funding to certain transit projects that are included in the 25-year Countywide Transportation Plan (CWTP); and

WHEREAS, the ACCMA has included the following three projects in the Draft 2008 CWTP: 1) \$160 million for BART Warm Springs Extension (WSX) Project; 2) \$85 million for the AC Transit Bus Rapid Transit (BRT) Project; 3) \$14.8 million for the Dumbarton Rail Project (three projects collectively referred to as the RESOLUTION 3434 Projects); and

WHEREAS, MTC Revised Resolution 3434 specifies that the transfer of \$91 million of RM2 funds, previously identified for the Dumbarton Rail Project, to the WSX Project is conditioned on the ACCMA adopting a board resolution committing the like amount of RTIP funding to the ~~Dumbarton Rail Project~~ detailed above; and

WHEREAS, to accomplish the MTC request, the Final 2008 CWTP will need to be amended to reflect a reduction to the BART WSX Project from \$160 million to \$69 million of funding, with the balance of the funding assigned to the Dumbarton Rail Corridor Project and increasing the funding from \$14.8 million to \$105.8 million; and

WHEREAS, MTC has committed \$35 million in CMAQ funds to the BRT Project contingent upon the ACCMA adopting a funding commitment plan (and exploring a strategy to advance the funding) for \$40 M of RTIP funds; and

WHEREAS, the Backfill of Lifeline Program Funds Project (\$2 million), Mission/880 Project (Landscaping Component) (\$3.5 million), Broadway/Jackson Interchange Project (\$3 million), and the 880 Corridor Project (\$1.9 million), which are collectively referred to as PREVIOUS STIP COMMITMENT Projects, were proposed in the 2008 STIP but not included in the final 2008 STIP approved by the CTC; and

WHEREAS, Proposition 1B was approved by the voters of California in November of 2006 and included approximately \$20 billion for infrastructure improvements, including multiple transportation programs; and

WHEREAS, projects in Alameda County that have been programmed with Corridor Mobility Improvement Account (CMIA), Trade Corridor Improvement Fund (TCIF) Account, Traffic Light Synchronization Program (TLSP), and Infrastructure Bond Funding Programmed by the CTC through the STIP, are all components of the Proposition 1B Program, with this set of projects collectively referred to as the INFRASTRUCTURE BOND Projects; and

WHEREAS, the ACCMA was awarded/programmed approximately \$500 million of Infrastructure Bond funding for multiple projects on I-80, San Pablo Avenue, I-880, I-580, and I-680; and

WHEREAS, the CTC has indicated that project sponsors are responsible to fund any cost increases on the Infrastructure Bond Program projects.

NOW, THEREFORE BE IT RESOLVED, the ACCMA amends the CWTP to move \$91 million of funding commitment from the WSX Project to the Dumbarton Corridor Project; and

BE IT FURTHER RESOLVED, the ACCMA will prioritize programming for RESOLUTION 3434, PREVIOUS STIP COMMITMENT and INFRASTRUCTURE BOND Projects in future STIPs; and

BE IT FURTHER RESOLVED, the ACCMA will first commit up to fifty percent (50%) of new programming capacity in a STIP cycle to the RESOLUTION 3434 Projects collectively; and

BE IT FURTHER RESOLVED, the ACCMA will commit at least twenty five percent (25%) of new programming capacity in a STIP cycle to the WSX project if programming and financing criteria have been met; and

BE IT FURTHER RESOLVED, the Timing of Funding Requests and Financing Issues Associated with Limited Programming Capacity are further discussed in Attachment A; and

BE IT FURTHER RESOLVED, the ACCMA will work with project sponsors, funding agency partners, and elected officials and consider financing options such as bonding, advance construction authority, and exchanges to identify methods to advance funding; and

BE IT FURTHER RESOLVED, the ACCMA will not commit to a year of programming for RESOLUTION 3434, PREVIOUS STIP COMMITMENT and INFRASTRUCTURE BOND Projects prior to a STIP programming cycle; and

BE IT FURTHER RESOLVED, the ACCMA will require project sponsors to submit a request for funding that includes information that demonstrates that certain milestones are met, as detailed in Attachment B, to determine if a programming action is appropriate.

DULY PASSED AND ADOPTED by the Alameda County Congestion Management Agency at the regular meeting of the Board on Thursday, December 11, 2008 in Oakland, California, by the following vote:

AYES: **NOES:** **ABSTAIN:** **ABSENT:**

SIGNED:

Mark Green, Chairperson

ATTEST:

Gladys V. Parmelee, Board Secretary

ATTACHMENT A

Timing of Funding Requests and Financing Issues Associated with Limited Programming Capacity

The RESOLUTION 3434 Projects are likely to include requests larger than the funding available in an individual STIP cycle, and are expected to require non-standard programming arrangements. MTC Revised Resolution 3434 states that the financing costs of the RESOLUTION 3434 Projects are the responsibility of the project sponsor. The ACCMA Board may consider alternative financing proposals, including:

- Considering financing costs within the funding proposed
- Considering financing costs in addition to the funding proposed
- Accepting only a portion of the overall financing

The financing for the three RESOLUTION 3434 Projects will be considered on a case by case basis at the time of programming. The RESOLUTION 3434 Projects, with respect to financing, will be treated equally.

A request for funding for the PREVIOUS STIP COMMITMENT Projects could be accommodated within a single STIP cycle and financing issues are not expected to be an issue.

The INFRASTRUCTURE BOND Projects funding needs may occur between the traditional STIP Cycle call for projects and may need to be addressed between STIP programming cycles.

ATTACHMENT B

Programming Requirements

The ACCMA will require project sponsors to submit a request for funding that includes information that demonstrates that certain milestones are met to determine if a programming action is appropriate.

All projects will be required to:

- Have a detailed project schedule that demonstrates that all timely use of funds provisions can be met,
- Have a full funding plan to complete the project, and
- Have a detailed cost estimate (including supporting assumptions).

RESOLUTION 3434 Projects will also be required to:

- Submit an application for the proposed funding at the time of the call for projects of the funding cycle, and
- Have a legally certified environmental document for CEQA and NEPA (if required) prior to the programming of funds, and
- Have a clearly defined locally preferred alternative that has received formal approval from the governing bodies of the responsible local jurisdiction(s) where the improvements will be constructed.

PREVIOUS STIP COMMITMENT Projects will also be required to:

- Submit an application for the proposed funding at the time of the call for projects of the funding cycle, and
- Have a legally certified environmental document for CEQA and NEPA (if required) prior to the programming of funds.

INFRASTRUCTURE BOND Projects will also be required to:

- Provide documentation on the project funding and reason for the cost increase for review and discussion prior to consideration.

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